

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

EDWARD ROBINSON,

Plaintiff,

vs.

DR. CHAMBERLAIN, Supervising
Medical Officer at the Nebraska State
Penitentiary, in his official and individual
capacities; MICHELE WILHELM,
Warden of the Nebraska State
Penitentiary, in her official and individual
capacities; and SCOTT R. FRAKES,
Director of the Nebraska Department of
Correctional Services, in his official and
individual capacities,

Defendants.

4:21CV3018

**MEMORANDUM
AND ORDER**

On March 9, 2021, the court conducted an initial review of Plaintiff's Complaint (Filing 1) pursuant to 28 U.S.C. § 1915A.¹ In the Complaint, Plaintiff alleges he slipped and fell on a wet floor at the Nebraska State Penitentiary on August 19, 2017, sustaining injuries to his head, neck, back, and hip areas. In Count I of the Complaint, which is brought under 42 U.S.C. § 1983, Plaintiff claims the defendant prison officials have been deliberately indifferent to his serious medical needs. In Count II of the Complaint, Plaintiff claims the defendants' negligence caused the slip-and-fall.

The court determined on initial review that the Complaint is subject to preservice dismissal, but on its own motion gave Plaintiff 30 days in which to file an amended complaint that states a plausible Eighth Amendment claim under 42

¹ Plaintiff is currently incarcerated at the Nebraska State Penitentiary. He paid this court's filing and administrative fees on January 9, 2021.

U.S.C. § 1983. The court dismissed Count II of Plaintiff's Complaint (i.e., state-law tort claims) without leave to amend.

The court received a pleading from Plaintiff on March 29, 2021, which was docketed as an Amended Complaint (Filing 8). That filing, however, is merely an exact copy of Plaintiff's original Complaint. As such, it is a nullity.

IT IS THEREFORE ORDERED:

1. Plaintiff's action is dismissed without prejudice because Plaintiff failed to prosecute it diligently and failed to comply with this court's orders.
2. Judgment shall be entered by separate document.

Dated this 10th day of May, 2021.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge